
Status & Remarks

The application presently contains the following claims:

<i>Independent Claim #</i>	<i>Dependent Claim #s</i>
1 (deleted)	
4 (amended – previously a dependent claim)	2 (currently amended) 3 (previously presented) 5-7 (previously presented) 8 (deleted) 9, 11 (currently amended) 12-13 (original) 14 (previously presented)
10 (deleted)	
15 (deleted)	
16 (amended)	17-20 (previously presented)
21 (deleted)	
24 (amended – previously a dependent claim)	22 (amended) 23 (previously presented) 25-27 (previously presented) 28-29 (amended) 30-32 (previously presented) 34-37 (previously presented) 38 (amended) 39-41 (previously presented) 42 (amended)
33 (amended)	

The claims were amended and represented in conformity with the above table.

Claim Rejections – 35 USC §112

The examiner has rejected claims 2-3 and 10-14 under this section, first paragraph, as failing to comply with the written description requirement. The applicant's attorney has amended originally submitted dependent claim #4 to include the limitations of originally filed independent claim #10 with the original limitations found in dependent claim #4 and rewritten the claim into independent form, in conformity with the

teachings of the specification as originally filed, thereby rendering this rejection moot.

The examiner has rejected claims 16-20, 24-28 and 33-42 under this section, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. The applicant's attorney has amended independent claims #16 and #33 in conformity with the suggestion of the examiner, thereby rendering this rejection moot.

The examiner has rejected claims #24 and #38 under this section, second paragraph as being indefinite in that the number of carbon atoms in the R⁴ moiety of Formula (VI) exceeded the number identified in the independent claim, from which the respective claims depend. The applicant's attorney thanks the examiner for this observation and has amended the claim, thereby rendering this rejection moot.

The examiner has rejected claims #28 and #42 as being indefinite. Through amendment, this rejection has been rendered moot.

Claim Rejections – 35 USC §102

The examiner has rejected claims 2-3 and 10-14 under this section, subparagraph (b) as being anticipated by Stevenson et al., United States Patent No. 6,824,711 in light of the previously referenced new matter rejections identified by the examiner above. Through amendment, the predicate for the new matter rejections is believed to have been overcome, thereby more appropriately shifting this rejection into the nonstatutory obviousness-type double patenting rejection which is based on judicially created doctrine.

The pending claims require two phosphite esters of defined composition, wherein the '711 patent only requires one phosphite ester. The claims are not identical as required under §102.

Claim Rejections – Double Patenting

The examiner has rejected claims 2-7, 9-14 and 16-52 on the ground of nonstatutory obviousness-type double patenting. Attached to this amendment response is an appropriate terminal disclaimer, thereby rendering this rejection moot.

Claim Rejections – 35 USC §103

There are no pending rejections under this section.

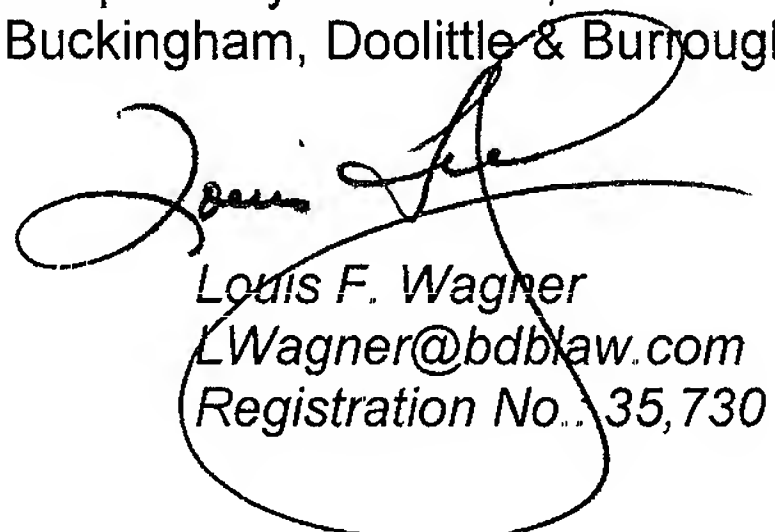
Request for Consideration

Applicant believes that all independent claims clearly define over the prior art and that the distinctions between the present invention and the prior art would not have been obvious to one of ordinary skill in the art. Additionally, the remaining dependent claims, by the limitations contained in the base independent claims, are felt to be patentable over the prior art by virtue of their dependency from independent claims which distinguish over the prior art of record. All pending claims are thought to be allowable and reconsideration by the Examiner is respectfully requested.

It is respectfully submitted that no new additional searching will be required by the examiner. A fee determination sheet is attached for this amendment response. The Commissioner is hereby authorized to charge any additional fee required to effect the filing of this document to Account No. 50-0983.

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Respectfully Submitted,
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